

# Exhibit 5

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SINGULAR COMPUTING LLC,	)	
	)	
Plaintiff	)	Civil Action
	)	
	)	No. 19-12551-FDS
vs.	)	
	)	
GOOGLE LLC,	)	
Defendant	)	

BEFORE: CHIEF JUDGE F. DENNIS SAYLOR, IV

STATUS CONFERENCE

John Joseph Moakley United States Courthouse  
1 Courthouse Way  
Boston, MA 02210

October 2, 2023  
12:00 p.m.

Valerie A. O'Hara, FCRR, RPR  
Official Court Reporter  
John Joseph Moakley United States Courthouse  
1 Courthouse Way  
Boston, MA 02210  
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1 APPEARANCES:

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8 APPEARANCES BY ZOOM:

9 For the Defendant:

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1 PROCEEDINGS

2 THE CLERK: Court is now in session in the matter of  
3 Singular Computing vs. Google, Matter Number 19-12551.

4 Participants are reminded that photographing,  
5 recording or rebroadcasting of this hearing is prohibited and  
6 may result in sanctions.

7 Would counsel please identify themselves for the  
8 record, starting with the plaintiff.

9 MR. TIMBERS: Good afternoon, your Honor,  
12:00PM 10 Kerry Timbers for plaintiff, as well as Adam Doherty and  
11 Brian Seeve and a couple of people online as well.

12 THE COURT: All right. Good morning.

13 MR. TIMBERS: Good morning.

14 MR. VAN NEST: Good afternoon, your Honor,  
15 Bob Van Nest, Keker, Van Nest & Peters here for Google. I'm  
16 here with Rachel Meny, Anna Porto and with Nathan Speed from  
17 the Wolf Greenfield firm. Good afternoon.

18 THE COURT: Hello, all. This is a status conference  
19 in this case. I obviously have some things pending, including  
12:01PM 20 the motions to exclude certain testimony, but other than that,  
21 where are we? Mr. Timbers.

22 MR. TIMBERS: So, on both sides, a lot of progress has  
23 been made. We have produced a number of documents. There was  
24 an issue raised, and we went and looked for documents from  
25 2008, and we produced them. We actually looked through all of

1       them, we didn't do a search, search terms, we just looked at  
2       all of them, about 3,000, and in looking at them, we realized  
3       there were a couple of other things that needed to be produced,  
4       so we produced everything, and Google has been asking some  
5       questions of us about that, and we've been going back and  
6       forth. The last set of questions came at 7:00 p.m. on Friday  
7       night, and we intend to engage with them about that.

8               They've asked to take Dr. Bates' deposition to that  
9       again, and we said yes to that, and they've produced documents.  
12:02PM 10       We still have a couple of questions that we want to talk to  
11       them about with respect to that. We do plan to go ahead with  
12       the depositions, and we've asked them for availability of  
13       Dr. Dean and Dr. Loudan, I'm not sure if it's Mr. or Dr., and  
14       planning also to subpoena Dr. Phelps, so that should be moving  
15       ahead right away, in October.

16               THE COURT: Okay. Mr. Van Nest.

17               MR. VAN NEST: Your Honor, I think that's a pretty  
18       fair summary of where we are. The Singular folks produced last  
19       week about 800 documents, several thousand pages. A lot of  
12:02PM 20       those were, at least some of those were lab notebooks,  
21       notebooks of some kind from Dr. Bates.

22               So as Mr. Timbers indicated, we have asked for another  
23       deposition, and they have agreed to that, so I think the  
24       parties have both produced what they believe is relevant,  
25       responsive, and now we should proceed to take the depositions,

1 and I don't see any difficulty with either of those. We know  
2 the depositions will be limited, as your Honor already  
3 indicated, but otherwise that's where we are.

4 THE COURT: All right. I genuinely appreciate not  
5 only the hard work you're putting into this but also the  
6 cooperative efforts. I know that's not always easy, and I very  
7 much appreciate it.

8 I think what I'd like to do is check in again, I think  
9 we can make it three or four weeks out at this point. As the  
10 trial gets closer, we'll have more to talk about, and this  
11 process, in October you said it's going?

12 MR. TIMBERS: Yes. There are still some questions we  
13 have about -- actually, both sides have questions about the  
14 other side's production. I assume that if we need to come  
15 back, we can call?

16 THE COURT: Yes, of course. You can request a  
17 conference at any time. I'm out next week, but otherwise I'm  
18 around and --

19 MR. TIMBERS: Great. I think there's some likelihood  
12:04PM 20 that may happen, but I don't think it's ripe.

21 THE COURT: That's fine. That's not unexpected.  
22 Well, I wouldn't say I'm happy to do it, I will do it, let's  
23 put it that way, and understand that not everything can be  
24 resolved in every detail.

25 So let me set it for another status, and then I also

1 want to, just because people are curious about this, want to  
2 know about if the government shuts down or, you know, who knows  
3 what this is going to look like over the next few weeks or  
4 months. What we were prepared to do and what I expect will  
5 happen is the courts are deemed essential employees. We will  
6 stay open.

7 It should be -- nothing should be noticeable from your  
8 standpoint. If we are in a shutdown mode, it means I will be  
9 paid and my courtroom and deputy law clerks will be paid in  
12:05PM 10 arrears, so they may be disgruntled, but we're all still going  
11 to be at work, and there is some question about impanelment of  
12 jurors.

13 We pay them \$50 a day, which is beyond trivial in  
14 terms of the government spending, but I would expect regardless  
15 of what happens, nothing will be affected as a practical matter  
16 in this case going forward.

17 All right. Matt, why don't you give me a date here.

18 THE CLERK: How about Wednesday, October 25th at  
19 3:00 p.m.

12:06PM 20 THE COURT: Wednesday, October 25th at 3:00 p.m.  
21 eastern time.

22 MR. TIMBERS: Yes. There was one other matter that  
23 the parties have discussed.

24 THE COURT: I'm sorry, is the date okay first?

25 MR. TIMBERS: Oh, the date is fine, yes.

1 THE COURT: Mr. Van Nest, does that work for you?

2 MR. VAN NEST: Yes, it does, your Honor, the 25th at  
3 noon in California.

4 THE COURT: Yes.

5 MR. TIMBERS: We currently have a December 14th date  
6 for our pretrial conference, and this is my fault. It's very,  
7 very close to my other trial, it's like the day after the trial  
8 is supposed to end, and if that trial would go a little longer,  
9 we would be stuck, so what I'm asking is -- and we've talked to  
10 the other side about this -- to move it to the 19th, or we're  
11 available any day that week.

12 THE COURT: Matt, does the 19th work?

13 THE CLERK: It does.

14 THE COURT: Let's move it to the 19th. At what time,  
15 2:00?

16 MR. VAN NEST: Your Honor, would it be possible since  
17 it's that week, the last working week, would it be possible to  
18 do it in the morning in Boston so we can catch a flight that  
19 evening?

12:07PM 20 THE COURT: That's fine with me.

21 MR. VAN NEST: 10:00 or something like that?

22 THE COURT: 10:00 eastern time, yes, that's fine.

23 MR. VAN NEST: Thank you.

24 THE COURT: All right. Anything else, Mr. Timbers?

25 MR. TIMBERS: Thank you, your Honor.



1 THE COURT: Mr. Van Nest.

2 MR. VAN NEST: Nothing for me, your Honor.

3 THE COURT: Okay, thank you.

4 (Whereupon, the hearing was adjourned at 12:07 p.m.)

5

6 C E R T I F I C A T E

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8 UNITED STATES DISTRICT COURT )

9 DISTRICT OF MASSACHUSETTS ) ss.

10 CITY OF BOSTON )

11 I do hereby certify that the foregoing transcript,  
12 Pages 1 through 8 inclusive, was recorded by me  
13 stenographically at the time and place aforesaid in Civil  
14 Action No. 19-12551-FDS, SINGULAR COMPUTING LLC vs. GOOGLE LLC  
15 and thereafter by me reduced to typewriting and is a true and  
16 accurate record of the proceedings.

17 Dated October 2, 2023.

18 s/s Valerie A. O'Hara

19 VALERIE A. O'HARA  
20 OFFICIAL COURT REPORTER

11:28AM 20

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